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PROCEDURAL ASPECTS OF THE PROBLEM OF THE ACCESSION OF INDIAN STATES TO INDIA AND PAKISTAN
(Preliminary Version)

R&A OIR Report No. 4586 (PV)

January 21, 1948

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By C G D NARS Date DEC 29 1976

REVIEW OF THE STATES' ACCESSION ISSUE

The India Independence Act of 1947 under which British power was transferred to the Dominions of India and Pakistan provides that British agreements and connections with the states are terminated. Such agreements under British paramountcy as affected communications, customs, posts, and telegraphs, and other like matters were to continue in effect until denounced by the ruler of an Indian state on the one hand or by "the Dominion or Province or other part thereof concerned on the other....or until superseded by subsequent agreements." The 500-odd states were thus left free severally to continue old arrangements or to negotiate with one or the other dominions new agreements covering their political and economic interdependence.

Paramountcy Between Princely and British India

Paramountcy is the term used to refer to the system of relationships developed by the British after 1857 as the means of assuring for their government in British India the necessary minimum of integration and cooperation with the rest of India. Under paramountcy the numerous princes, chiefs, and other petty rulers who pledged loyalty to the British Crown were supported in their continued exercise of varying degrees of local autonomy under general British supervision and control.[1]

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1. At the time that the British began their conquest of India in the seventeenth century the country was united by feudal ties. Under the Mughal emperors, whose sway extended throughout the subcontinent, central political control and administration was largely indirect. Local chieftains or rulers were recognized in exchange for pledges of loyalty, an annual payment to the emperor in Delhi, and the rendering of a mutually agreed amount of military support whenever required. The British conquest of India achieved piecemeal over more than two centuries was aided considerably by arranging numerous alliances and agreements with many of the rulers within the country. The terms of these alliances were also feudal in character, the general pattern being for chieftains or rulers to acknowledge some subordination to the British in exchange for military support against neighboring chiefs, overlords, or even rival claimants to the particular chieftain's land and title. Thus the British gradually isolated and overcame all important Indian military opposition in the country. Commercially valuable and strategically important areas were annexed directly as were also the territories of rulers who were unwilling to recognize British suzerainty. About two-thirds of India was so annexed. When the process of annexation was abandoned following the Mutiny of 1857 the British developed the system of paramountcy as a

The system permitted the British Government of India to develop unified policies for all of India in foreign affairs, defense, communications, economic controls, and general economic development. Thus the success of many important governmental policies in British India together with much of its commercial and industrial life involved the compulsory cooperation of the states. Under paramountcy British residents in all the states, not excepting the largest of these, Hyderabad, claimed and exercised the right to interfere in the internal affairs of any state, not only to check disloyalty but also to correct gross misrule on the part of the rulers.

The Method of Integration Contemplated by the British Plan of May 1946

The British Constitutional Plan of May 1946 for the formation of a single central government for all India recognized the unavoidable interdependence of British India and the States. British spokesmen pointed out, for example, that their control over princely India was so intimately connected with their position in the rest of the country that paramountcy could not be retained once British India achieved independence "whether inside or outside the British Commonwealth." Although the British Plan announced that paramountcy was not to be transferred to the new government, it arranged for the simultaneous formation of a Central Indian Government to deal with the three most important spheres of policy previously managed by themselves under paramountcy, viz., defense, foreign affairs and communications. Only two important features of paramountcy were left for mutual negotiation between princely and British India, namely Britain's traditional support of autocracy as opposed to the extension of responsible government in the states, and the question of unified direction of India's economic development.

The actual British provisions for the formation of the central government furthermore gave no recognition to princely sovereignty,[1] stating simply that states' representatives along with those from the rest of India were to be included in the generality of the Central Executive and Legislature. The method of selecting the states' representatives for the Constituent Assembly was not left entirely to the discretion of the rulers, but was to be determined in consultation with the representatives from British India.

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means of controlling the 500-odd rulers whose titles the British had decided to continue to recognize.

1. A provision that the provinces, through a vote of their legislative assemblies, might demand a reconsideration of the union constitution was not applicable to the states.

Rulers Accept British Constitutional Plan

None of the rulers with the possible exception of Kalat[1] took advantage of the announcement that paramountcy was to terminate to make an immediate bid for independence from the rest of India, although they realized that the Congress Party was thoroughly opposed to princely autocracy. During the course of consultations with British officials over the impending constitutional changes, the Nawab of Bhopal, as head of the Chamber of Princes, declared that "prince and peasant alike" shared "the general desire in the country" that India be free, great, and respected, and that the princes would make "every possible contribution towards the settlement of the Indian Constitutional problem." The Nawab's statement did not provoke at the time any conflicting comments from states not represented in the Chamber, and was generally interpreted as a recognition by the rulers of the need for opening negotiations with the political leaders in British India in preparation for British withdrawal.

The states' apparent acceptance of the Plan for a unified India was of particular significance because that acceptance was not subsequently withdrawn despite the opportunity afforded by the Muslim League's rejection of the Plan. In pursuance of measures to implement the Plan, the princes consulted with Constituent Assembly representatives from British India, and, despite the absence of Muslim League representatives from these consultations, agreed in February 1947 that not less than half of their representatives to the Constituent Assembly should be selected by popular bodies within the states. When the British announcement of February 20, 1947 first intimated that British India might be partitioned, one or two states' leaders indicated that in the event the Cabinet Plan was abandoned they might attempt a bid for independence. None of the states, however, resiled from their February agreement with the Assembly, and in general they proceeded to negotiate the arrangements for selecting the popular segment of their representation and to have their delegates join the assembly.[2]

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1. The ruler of this Muslim state on India's northwest border argued that his state occupied a unique position and that its relations with the British were essentially different from those of the other states.

2. It is to be noted in this connection that the selection of the popular representatives from Hyderabad and Kashmir was held up in April not through any decision of the rulers concerned, but because the Congress Party leadership demanded fresh elections of the popular elements in the state councils

A Few Rulers Bid for Independence

When after June 3, 1947 the partitioning of India became a foregone conclusion some of the princes saw an opportunity for putting their autonomy on a more permanent basis by pressing for international recognition. The rulers of Hyderabad, Travancore, and Kashmir publicly announced their intention of declaring their states independent when the British should withdraw on August 15, while Hyderabad in particular proceeded to strengthen its military and police forces and to develop a legal case in support of its claims. The rulers of a number of other states in Central India, notably Bhopal, Mysore, and Indore, adopted a non-committal attitude apparently waiting to see whether a bid for full independence could be made good. Others, like Junagadh, were apparently considering the possibility of countering the influence of the dominion within whose geographic sphere their territories lay by affiliating with the opposite dominion.

In general, the argument of the rulers was that, with the termination of paramountcy, Britain's sovereign powers automatically reverted to the rulers of the states inasmuch as prior to British control the rulers had allegedly been functioning independently of all external authority. These claims ignored the prevailing feudal pattern of political relationships that existed in India before the British conquest and also the fact that under paramountcy the actual interdependence between princely and British India had steadily increased so that, when the British pattern of relationships was terminated, the invention of a fresh pattern of relationships was required to fill the void. In the light of the partition, however, the princes could also argue that they had the same right as Pakistan to achieve sovereign independent status,[1] or at least that they should be entirely free to choose whether to stay with the Dominion of India or to join Pakistan. This argument ignored the implied consent already given in the February commitment to take the wishes

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as prerequisite. Neither the Hyderabad Peoples' Conference nor the Kashmir National Conference, the two leading parties in the respective states, had participated in the last elections of the popular segment of the respective states' councils. (The strength of the Muslim League parties in these states is as yet indeterminate.)

1. The ruler of Hyderabad based his claim to independence on the plea that he needed to maintain intimate relations with both of the new dominions.

of the people into consideration.

1947 Independence Act

The British decision to transfer power to the two dominions many months earlier than was originally anticipated made it necessary to make the transfer on the basis of the constitution already in existence, viz., the Government of India Act of 1935. There was, therefore, no possibility, as there had been under the Constitutional Plan of the year before, for prior establishment of a new basis for cooperation between states and dominions. Nor could the British specify any requirements as to future action within India once they had divested themselves of all power. The 1947 Independence Act terminated all British connections with the princes. Those central agencies (Army, and Departments of Defense, External Affairs, and Commerce) through which the British Government of India actually had dealt with responsibilities of paramountcy were turned over to the dominion Governments. The States Department which had been specially organized earlier in the year as the means by which the connection between self-governing India and the states would be maintained following British withdrawal was also turned over to the Government of India intact.

Many of the rulers recognized that termination of their connection with the British left them little alternative but to acknowledge connection with activities in the dominions, and prepared to negotiate accordingly.[1] The setting up of two rival dominions in the place of a single self-governing Union, however, seriously complicated the problem of negotiating the affiliation of the princely states. In view of the way in which states' territory was interpersed with that of the dominions, especially in the case of the Dominion of India within whose sphere most of the 500-odd states lay, the intransigence of a number of rulers in the larger states could be of considerable embarrassment, particularly if any of the rulers had succeeded in their efforts to get international recognition for their claims.

India Claims that Paramountcy Transfers to Dominions or that Sovereignty Reverts to People

The position taken by the Dominion of India through

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1. Numerous states' rulers in the spring and summer of 1947 were privately urging that they be allowed to retain some connection with the British.

Nehru as spokesman was that all the states must affiliate with one dominion or the other and that India would regard as a hostile act recognition of any state by a foreign power. Other Congress Party leaders argued that either paramountcy automatically transferred to the two dominions, who by the terms of the Independence Act were to be the sole successors of the British "Government of India", or that if sovereignty reverted to the states, it would revert to the people and not to the rulers.

Pakistan Claims that the States Acquired Sovereign Status Automatically

M.A. Jinnah, speaking for Pakistan, announced that upon the termination of all British agreements with the states, the latter would emerge with "full sovereign status." At the same time, he invited any of the states who chose to do so to negotiate a political or other relationship with Pakistan or to join its Constituent Assembly. This recognition of full freedom on the part of the princes appears to have been opportunistic, for it is extremely doubtful that Jinnah actually would have allowed such states as Bhawalpur or Khairpur, through which pass the main communication lines of West Pakistan, to exercise the option of joining the Dominion of India.

Despite Jinnah's announcement, the Muslim League attacked vigorously the Muslim ruler of Kalat (the leading chieftain of the Baluchistan states) for his claims to independence, while simultaneously encouraging similar claims put forward by the Hindu ruler of Kashmir. Apparently the League considered that Kashmir had simply broken away from the Dominion of India and for all practical purposes could be considered to be gravitating to Pakistan's geographic sphere whereas Kalat was censored for making a bid to leave Pakistan and gain a fully independent status similar to that of Afghanistan.

The Muslim League followed a conciliatory policy in leaving undisturbed the autocratic powers of the states' rulers. Jinnah probably had reason to be confident that Pakistan could by direct negotiation acquire the necessary control of foreign affairs and defense from the ten or twelve states in its sphere.[1] His policy appeared to have the double advantage of enabling the Hindu ruler of Kashmir to maintain formal independence while negotiating a mutual

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1. The Hindu ruler and Prime Minister of Kashmir were on friendly terms with the Pakistan leaders at the time and, as subsequent events showed, Pakistan was able to maneuver the affiliation of Kalat's feudatory states, Kharan and Las Bela, and thus indirectly bring pressure on the recalcitrant ruler to start negotiations.

defense pact with Pakistan, and also of opening the way for Pakistan to accept the affiliation of any of the states in the Indian sphere or of recognizing their independence. Certainly, Jinnah's announcement was viewed by Congress Party leadership as a maneuver to extend Pakistan's territories, or failing that to encourage the Balkanization of India.

British Favor Affiliation on Geographical Basis

Following the passage of the Independence Act, Lord Mountbatten in his capacity as Viceroy and as presumptive Governor-General of both dominions[1] held a conference with the princes in order to help solve the affiliation problem. His comments concerning the choices before the states were more closely in line with the Indian rather than with the Pakistan position. Reiterating Britain's intention not to maintain any relations with the states apart from the dominions, he made no reference to the possibility of the states achieving sovereign status as individual entities and instead talked only in terms of freedom to join one or other of the dominions. Without indicating whether the choice was to be exercised by the rulers or the people of the state, Mountbatten urged that geographical considerations determine the dominion of affiliation. As all the predominantly Muslim-populated states bordered on Pakistan such a proposal appeared to be both feasible and popularly acceptable.

Paramountcy for India and Limited Sovereignty for States' Rulers Under Instrument of Accession

Following the Viceroy's conference, the Dominion of India succeeded in getting most of the states in its sphere to sign an Instrument of Accession.[2] Pakistan proceeded to negotiate separate individual agreements with the states in its sphere. The uniform Instruments of Accession offered by India provided that the rulers in the "exercise of their sovereignty in and over their states" acceded to the Dominion of India with the intent that the dominion should exercise in relation to the states such functions as might be vested in it on August 15, 1947 under the 1935 Act. The rulers also recognized the binding character of existing dominion Laws in the fields of defense, foreign affairs, and communications. The Instrument left undetermined whether the states will participate in a common central government under a new

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1. Pakistan's subsequent refusal to accept Lord Mountbatten as Governor-General was a surprise to the British
2. The B and C class states signed a slightly modified form of Instrument under which the Dominion of India continues to perform certain judicial and administrative functions formerly performed by the British Government of India.

constitution for India or whether their connection will continue to be an indirect one, based on agreements with the "Government of India." The rulers apparently submitted to the continued exercise by the Dominion of India of most of the functions of paramountcy while the Dominion of India in turn gave some recognition to the rulers' internal sovereignty within their several states. The Government of India's concession is presumably not considered incompatible with its continued insistence that only the people of a state can decide their ultimate status, and that the Dominions should accept affiliation only if the ruler's decision has popular support.

Pakistan's Apparent Continuance of Paramountcy Functions

Most of the states in Pakistan's sphere arranged during August and September to affiliate with it, and a number have announced their intention of joining the Pakistan Constituent Assembly. As the details of the several agreements are not generally available, it is not clear how far Pakistan recognized "the full sovereign status" of the states involved, or the authority of the rulers. The dominion appears in practice to be exercising most if not all of the paramount functions previously exercised by the British Government of India.

Rivalry over Non-Affiliated States

Despite the progress made by both dominions in the handling of the states question, several serious problems remained. The Muslim ruler of Hyderabad, with considerable financial and military resources at his disposal, continued to claim independence, although the state lies in the center of peninsular India and the population is predominantly Hindu. Internally the state is run by a militant Muslim group supported by an army recruited from Arabs, Pathans from the North West Frontier, and some Punjabi Muslims; while the development of a popular movement is still in its infancy. Externally, Hyderabad is the only state that has made a serious attempt to obtain international recognition.

The Muslim League openly supported Hyderabad's claims but Pakistan did not accord formal recognition of Hyderabad's independent status. One reason for delaying was presumably that the neighboring Hindu ruler of "independent"Kashmir had not yet negotiated a firm agreement of cooperation with Pakistan. Thus Kashmir's claim to independence, originally viewed within India as a hostile move began to prove of advantage to that dominion as a means of restraining Pakistan from supporting Hyderabad until India could get a reasonably permanent commitment of cooperation from that state.

Pakistan Accepts India's Suggestion of Plebiscite in Junagadh Dispute

This uneasy equilibrium in the rivalry over the states

was upset in September when Pakistan accepted the affiliation of Junagadh, a Muslim-ruled, Hindu-populated state in the Indian sphere. Recognizing that Junagadh's accession to Pakistan would set a precedent for Hyderabad's militant Muslim elements to follow, India immediately protested the affiliation, dispatched troops to surround the state and invited Pakistan to resolve the dispute by holding a popular plebiscite in the state. Although the Dominion of India is now carrying on the state's administration on the invitation of the Muslim prime minister,[1] Junagadh's position is not considered settled.

Dominions Agree Not to Use Force and to Give Some Recognition to Geographical Spheres

From the exchange of communications over the Junagadh incident it would appear that the two dominions had reached a secret agreement[2] not to march troops in to any state not affiliated with the dominion concerned, and to accord some recognition to each others' rights in their respective geographical spheres. India charged that Pakistan had agreed not to accept the affiliation of a state beyond its geographical sphere. Nevertheless, from India's suggestion that Junagadh's affiliation be decided by popular plebiscite, and from Pakistan's acceptance of India's suggestion, it would seem that the agreement did not completely prohibit a dominion from accepting such affiliation. The precise character of this undisclosed agreement, which may involve plebiscite arrangements, needs to be clarified.

India's Conditional Acceptance of Kashmir Affiliation

Before India and Pakistan had made any substantial progress toward settlement of the Junagadh issue, Kashmir was invaded in late October by a mixed group of tribesmen from the North West Frontier and Muslims from Pakistan, apparently in support of Muslim League sympathizers in

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1. The disturbances caused by a popular movement organized to protest the Maharajah's decision, together with the flight of the Maharajah to Pakistan carrying with him the state treasury led the Muslim prime minister of Junagadh to invite assistance from the Dominion of India

2. As far as is known this agreement was not published, but it may have been made either at the time that the partition was itself agreed upon, or later during the negotiations on how the partition would be effected.

in Kashmir.

Background Events to Kashmir Invasion

The Kashmir Muslim Conference, organized in the early 40's under Muslim League sponsorship as a rival to the National Conference, has, until very recently, supported the Maharajah, and a number of its members enjoyed governmental appointments under him.[1] The leaders of the Kashmir National Conference, on the other hand, who were demanding that the Maharajah turn over power to the people simultaneously with the British transfer of power, were jailed in 1946.[2] The Muslim Conference welcomed the Maharajah's declaration of independence in July 1947, and proceeded in August to campaign for Kashmir's affiliation with Pakistan. It overreached itself, however, when it appealed to National Conference followers on the ground that affiliation with Pakistan would itself be the means by which responsible government would be achieved. The Maharajah, alarmed over the presumption of the Muslim Conference leaders, jailed them, whereupon their followers began to demand responsible government.

During the course of the communal massacres in the Punjab and NWF Province in September, Pakistan papers began to report a number of more or less spontaneous raids into border areas of Kashmir, the raiders demanding Kashmir's affiliation with Pakistan. Simultaneously, an uprising of obscure origin against the Maharajah broke out in the Punjabi-speaking area around Poonch.[3] At the end of September, the

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1. Many of these were presumably still holding office at the time of the invasion.
2. Gandhi and Nehru publicly supported this demand assuring the Conference that when British paramountcy ended the Congress Party would continue its support for the popular movement and demands for plebiscites in determining the state's affiliation issue.
3. It is not clear (a) whether, as alleged by India, this uprising started simply as another popular revolt against the Maharajah which was subsequently exploited by groups in West Pakistan as part of their general campaign to force Kashmir's affiliation with Pakistan; (b) whether, as insisted by the Pakistan Government, it originated in protest to communal violence on the part of Hindu and Sikh refugees from Pakistan aided and abetted by local officials, or (c) whether it was simply the result of the rising tide of communalism spreading from the Muslims in the Pakistan district of Hazara to their relatives in Poonch.

Maharajah released from prison the National Conference leader, Sheikh Abdulla, presumably as a means of counteracting Muslim Conference pressure. About the same time a "Free Provisional Government for Kashmir"[1] was reported to have been established just within the border of the state near Muzzafarabad, demanding Kashmir's affiliation with Pakistan.

Formal Kashmir protests to Pakistan over the border raids and the apparent campaign to force the state's affiliation with Pakistan resulted in early October in the sending of a Pakistan delegation to Srinagar to consider the whole question of Kashmir-dominion relations. It is not known what the delegation proposed,[2] but no effective move was made to quell the raids. At this juncture (October 15) the Maharajah dismissed his pro-Pakistan prime minister. The new prime minister reiterated Kashmir's protests to Pakistan over the raids, but also announced that if the Pakistan government made no effort to check them Kashmir would have to appeal for aid from other quarters, presumably India.

Meanwhile, Sheikh Abdulla took advantage of the in Delhi Maharajah's difficulties to insist publicly/that full responsible government was a necessary precedent to Kashmir's decision on affiliation with either India or Pakistan.[3] Abdulla also condemned communalism vigorously attacking the Sikh states as well as Pakistan on this issue. He declared that even though Kashmir should decide that its Pakistan connections were more important than its ties with India, it never would abandon its non-communalist policy. Abdulla had just returned to Srinagar when the Valley was invaded from the Pakistan side of the border in support of the group who had organized the "Free Kashmir Government"at Muzzafarabad. The political objectives of the invaders are not fully known.

Kashmir Affiliates with India

The Maharajah's appeal for military aid from India was apparently the result of his conviction that Pakistan

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1. On October 24, 1947 the Pakistan Times announced that a "Free Kashmir Government" had been formed " a few weeks ago."

2. The Pakistan Government reports that the representatives sent to Srinagar were not heard by the Kashmir prime minister, while the new October-appointed prime minister insists he talked with the representatives. Neither side has indicated what Pakistan's suggestions were.

3. This demand was made at the States Peoples' Conference held in Delhi during the third week of October.

would be unable or unwilling to take action against the raiders. Possibly he concluded that Pakistan threatened both his power as a ruler and the integrity of his state,[1] whereas he hoped India would welcome this opportunity of accepting Kashmir's affiliation and not insist on its earlier conditions of a plebiscite and some recognition of the popular movement. India protested the resort to violence by the Pakistan sympathizers as a means of determing the affiliation issue and accept the Hindu Maharajah's request. This acceptance, however, was made conditional on the installation of Kashmir's National Conference leader, Sheikh Abdulla, as head of an Emergency Government[2] under the Maharajah, and also subject to the determination of the question of ultimate affiliation by popular plebiscite once law and order had been restored.

Pakistan Protests Kashmir's Affiliation

Pakistan protested Kashmir's affiliation with India at first insisting that the Kashmir invasion was simply a tribal raid which Pakistan was unable to control and rejecting India's proposal for a plebiscite on the grounds that so many Muslims (presumably Muslim Conference partisans) had left Kashmir that a plebiscite would not be fair. It is possible that the Pakistan government at Karachi was ignorant of how deeply interested persons in the Punjab and NWF Province were involved in supporting the invaders.

Counter Claims of the two Dominions

The official explanation of the situation by the Pakistan Government is that the Maharajah deliberately launched a terrorist program on a communal basis against all who wished to affiliate with Pakistan, provoking retaliation from the Muslim population in order to provide himself with an excuse for affiliating with India. Thus by fraud and

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1. Kashmir was the only ruler whose right to the throne the Muslim League questioned. From certain comments of Punjab leaders it would appear that a number of Leaguers felt Kashmir should become another province of Pakistan while a number of Pathans in the NWF Province were reported to be urging a claim of their own to Kashmir.

2. It was subsequently announced that the government would be modelled on the Mysore State Constitution, where although the Maharajah's prime minister retains considerable control, the popular representatives exercise as much authority as in any of the states.

violence obtained Kashmir's affiliation. India claims, on the other hand, that it was always prepared to accept the affiliation of any princely ruler, providing that such affiliation had popular support in the state. It charges that Pakistan officials have been supporting the attack on Kashmir by providing both personnel and equipment. While Pakistan admits that dominion personnel is involved in the fighting, it claims that they are merely individuals helping brother Muslims resist Hindu oppression and that no official personnel or equipment are involved.[1]

Neither dominion has made any reference to the principle of geographic proximity in connection with the Kashmir dispute. Nehru apparently regards the state as a border case where the two dominions' geographical spheres overlap, a claim which Pakistan cannot make with reference to Hyderabad. India's plebiscite suggestion and Pakistan's reiteration of its claims to Junagadh, indicate that both dominions take the position that other considerations favorable to their respective claims take precedence over the geographical.

The mutual suspicion of the two dominions promises to be the most serious barrier in arranging the necessary military and administrative supervision of a plebiscite. The Pakistan government charges that a plebiscite with the Dominion of India in control would be a farce. It insists on three main conditions: (a) that all Indian troops and personnel (as also Pakistan personnel) be withdrawn, (b) that those who have left their homes return, and (c) that the Emergency Government of Sheikh Abdulla be replaced by a "responsible," "representative" and "impartial" administration to be organized. India, on its side, apparently feels that the Pakistan government will take resort to every strategem to prevent a state with a Muslim majority from voting to join India. (a) It fears that if Indian troops are withdrawn Pakistan personnel will infiltrate back over the border to intimidate the population or to work up communal frenzy. (b) India will also be suspicious that non-Kashmiris will enter the state on the pretense of having previously fled their homes. (c) Finally, it is not likely to agree that any Kashmir administration would be "responsible", "representative" or "impartial" unless it included the Kashmir National Conference leadership. Neither dominion has commented on the feasibility or acceptability of forming a purely Kashmir all-party coalition administration cooperating with an international commission to supervise elections, and supported by combined Indian-Pakistan forces charged only with controlling the border.

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1. A non-Asiatic observer who was in a good position to know the facts has reported through the Department that the invaders were led by some 500 Pakistan officers "on leave" from the army and that material aid was supplied by local government officials.

In closing it may be pointed out that the India-Pakistan struggle over the states will not be ended until the future of Hyderabad as well as of Kashmir is settled. Many Indians fear that in the event Kashmir should elect to join Pakistan, that dominion would begin to give serious support to Hyderabad's claims to independence. The suggestion has also been raised in certain quarters that the whole states' issue may be reopened in the event that India leaves the Empire or adopts a different constitution.[1]

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1. Whereas the argument has been raised that inasmuch as the Instruments of Accession were signed with the Dominion of India functioning under the 1935 Act and not with the emerging "Government" of India the states would not be bound to participate under the new constitution, this circumstance would seem hardly likely to affect the international status of the states unless some future British Conservative Government wished to recognize the sovereign status of Hyderabad, for example, as a means of bringing pressure on an independent India.

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Summary of Legal and Practical Considerations Governing the Problem of the Accession of the Indian States

1. The withdrawal of British paramountcy over the Indian States on August 15, 1947, removed the legal arrangements under which the essential and increasing integration of the economic and political affairs of British India and of the States had developed during the past century. The necessity of devising some new pattern to fill the void created by British withdrawal suggests that practical considerations relating to foreign policy, defense, transportation, communications, trade, and governmental administration generally should weigh heavily in determining questions of accession to the Indian dominions as successors to British rule.

2. In view of the relative infancy of the popular movement within the several states, the decisions of the princes who perform the "local government" functions have been given a measure of legal recognition. The integration of self-governing provinces with feudally-governed states presents an anachronistic problem, difficult to fit into modern concepts of international law.

3. The decision to partition India without any prior agreement respecting the legal status of the states aggravated the problem of integration by introducing communal differences and inter-dominion rivalry, which now transform simple problems relating to accession into major threats to the peace of all India.

4. A number of princes, anxious to buttress their local autonomy, took advantage of the emergence of Pakistan to make a bid for "sovereign status". The bargaining position of the Princes has been enhanced by the rivalry of the dominions to win over the states and also by the degree of political confusion and economic decline that has developed within former British India as a consequence of partition.

5. Mr. Jinnah has taken the position that the states emerge with "sovereign status" now that paramountcy has been lifted, but he has not hesitated to use political pressure to induce certain states to accede to Pakistan.

6. The Congress Party, on the other hand, has insisted that the states are sub-national entities and that they must accede to one or the other dominion. It has proposed that where there is a dispute between the two dominions as to whether the prince's decision is in conformity with the popular will the matter be decided by a plebiscite.

7. The British, through Lord Mountbatten, refused to recognize the international status of even the major princely states, and turned over to the successor dominion Governments the agencies through which Britain had previously exercised paramountcy. Although recognizing the "technical" freedom of the states to affiliate with either Dominion, Mountbatten stressed the principle of geographical proximity as the consideration of major importance in determining accession. The British could argue that the partitioning of Bengal in violation of geographic considerations was done by agreement with India and in response to popular demand.

8. The princes agreed in February 1947 to accede to Congress Party demands that half of the delegations sent by them to the Indian Constituent Assembly be chosen through popular channels. Most of the states lying in the Indian sphere acceded to India in August but it is not yet clear whether they will participate in a Central Union under the new Constitution or will continue the indirect connection with the self-governing area through formal agreements.

9. When Pakistan's acceptance in September, 1947, of the affiliation of Junagadh, a state lying within India's geographical sphere, was disputed by the Dominion of India, Pakistan agreed to consider settling the dispute by popular plebiscite.

10. From the exchange of communications between the two Dominions during the Junagadh incident it appears that in an unpublicized agreement the Dominions were committed (a) not to march troops into unaffiliated states, and (b) to give some recognition to the principle of geographical propinquity.

11. India has a two-fold interest in settling the Kashmir dispute by plebiscite: (a) as a precedent for any later contest over Hyderabad and (b) as an important advantage in urging other Muslim areas to reunite with India in the event that Kashmir's Muslim electorate should vote to join India.